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3 BILL NO. R-75-03-10

4 RESOLUTION NO. R- 19-75

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6 A RESOLUTION authorizing the issuance and sale of \$550,000
7 Economic Development First Mortgage Revenue Bonds (Gunnar
8 Elliott Ice Arena, Inc.) of the City of Fort Wayne, Indiana
9 for the purpose of acquiring real estate, machinery, equipment
10 and related property comprising economic development
11 facilities for lease and sale to Gunnar Elliott Ice Arena,
12 Inc. authorizing execution of the lease; Providing for
13 the Pledge of revenues for the payment of said Bonds;
14 Authorizing a mortgage and indenture of trust appropriate
15 for the protection and disposition of such revenues;
16 and Authorizing the sale of said bonds.

17 WHEREAS, the City of Fort Wayne, Indiana (hereinafter called the
18 "City") is a municipal corporation and political subdivision of the State of Indiana
19 and by virtue of IC 1971, 18-6-4.5-1 through 18-4.5-28, inclusive, as amended
20 (hereinafter called the "Act") is authorized and empowered to acquire economic
21 development facilities as those words are defined in the Act and to lease said
22 economic development facilities as lessor to others to overcome insufficient employ-
23 ment opportunities and insufficient diversification of industry in and near the
24 City to promote the general economic welfare of the area in and near the City and
25 to issue its economic development revenue bonds to pay all costs of purchase or
26 construction of such economic development facilities including engineering, legal
27 fees and all other expenses related thereto during construction, including the costs
28 of issuing the bonds and to secure said bonds by a trust indenture creating a
29 security interest in such economic development facilities; and

30 WHEREAS, Gunnar Elliott Ice Arena, Inc. (the "Lessee") is a corpor-
31 ation duly organized under the laws of the State of Indiana, qualified to do business
32 within the State of Indiana; and

33 WHEREAS, the Lessee has agreed to lease economic development
34 facilities from the City and thereby create new employment opportunities and pro-
35 vide diversification of recreational facilities in and near the area of the City, and
36 to pay rental sufficient to pay the principal of and interest and premium on the
37 economic development revenue bonds hereinafter authorized; and

38 WHEREAS, the Common Council of the City (the "Common Council")
39 has heretofore by Special Ordinance No. S-19-72 and pursuant to IC 1971,
40 18-6-4-1 through 18-6-4-28, inclusive, created the Fort Wayne Economic Develop-
41 ment Commission which by virtue of the Act has become the Fort Wayne Development
42 Commission (the "Commission") and the members of the Commission have been
43 duly appointed and qualified pursuant to law and the Commission has organized
44 and undertaken the duties imposed upon it by the Act and has found by written
45 resolution that because of insufficient recreational facilities, the economic welfare
46 of the City would be benefited by the acquisition and leasing to Gunnar Elliott Ice
47 Arena, Inc. of economic development facilities.

48 WHEREAS, the Commission has by such resolution approved a report
49 estimating the public services which would be made necessary or desirable, the
50 expense thereof, the number of jobs, the estimated payroll on account of the
51 acquisition and leasing of the economic development facilities and the cost of con-
52 struction of the economic development facilities and has submitted such report to
53 the Plan Commission of the City of Fort Wayne; and

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55 APPROVED AS TO FORM
56 AND LEGALITY


Ned S. Orr
CITY ATTORNEY

WHEREAS, said Plan Commission, upon receiving the report of the Commission, has formulated written comments concerning such estimate and have transmitted those comments to the Commission within the time provided by law; and

WHEREAS, after giving notice in accordance with the Act, the Commission held a public hearing on the proposed financing and adopted a resolution finding the proposed financing complies with the Act, approving the financing and approving the form and terms of the economic development revenue bonds proposed to be issued by the City to pay a portion of the cost of such facilities, the lease and indenture, which resolution and other instruments and information pertaining to the proposed financing have been transmitted to the Common Council of the City by the Secretary of the Commission; and

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

SECTION 1. Public Benefits. The Common Council of the City hereby finds and determines that the real estate, machinery, equipment and other facilities in connection therewith (the "Project") to be acquired in part with the proceeds of the Economic Development First Mortgage Revenue Bonds (Gunnar Elliott Ice Arena, Inc. Project) herein authorized are "economic development facilities" as that phrase is used in the Act and that the utilization of the property in the creation and location of the Project is economically sound, will increase employment opportunities and increase diversification of industry in and near the City, will improve and promote the economic stability, development and welfare of the area in and near the City.

SECTION 2. Findings. The Common Council hereby finds that this resolution (the "Bond Resolution") is of public benefit to the economic welfare of the City, by tending to overcome the deficiencies previously found to exist, to-wit: insufficient employment opportunities and insufficient diversification of industry and recreational facilities, and that such benefit is greater than the cost of public facilities (as that phrase is defined in the Act), which will be required by the Project.

SECTION 3. Authorization of \$550,000 Economic Development First Mortgage Revenue Bonds. In order to pay a portion of the costs of acquiring the Project, there are hereby authorized to be issued, sold and delivered \$550,000 aggregate principal amount of Economic Development First Mortgage Revenue Bonds (Gunnar Elliott Ice Arena, Inc. Project) of the City (the "Bonds"). It is hereby recognized that pursuant to the terms of the Lease the balance of the cost of the Project will be paid for by the Lessee unless paid for out of the proceeds of additional parity bonds (the "Additional Bonds") as identified in the Indenture.

SECTION 4. Definitions. In addition to the words and terms defined in this Bond Resolution, the words and terms used in this Bond Resolution shall have the meanings set forth in the Indenture, the Lease and unless the context or use indicates another or different meaning or intent and the form of the Bonds and the forms of the Lease, and Indenture, which forms are before this meeting are hereby incorporated by reference in this Bond Resolution and the Clerk is hereby directed to insert them into the minutes of the Common Council to keep them on file.

SECTION 5. Terms for the Bonds. The total principal amount of the Bonds that may be issued is hereby expressly limited to \$550,000 provided, however, that Additional Bonds may be issued as hereinafter provided.

The Bonds shall be subject to redemption prior to maturity upon the terms and as provided in the Indenture.

5 The Bonds shall be executed on behalf of the City with the official
6 manual or facsimile signature of the Mayor and attested with the official manual
7 or facsimile signature of the Clerk and shall have impressed or imprinted thereon,
8 the corporate seal of the City. The coupons attached to the Bonds, if any, shall
9 be executed by the facsimile of the official signatures of the Mayor and Clerk and
10 such facsimile on any Bonds or coupons shall have the same force and effect as
11 if manually signed by such officer. The bonds, together with the interest thereon,
12 shall be limited obligations of the City payable solely from the revenues and
13 other amounts derived therefrom the leasing or sale of the Project (except to the
14 extent paid out of moneys attributable to the Bond proceeds or the income from
15 the temporary investment thereof and under certain circumstances, proceeds from
16 insurance and condemnation awards) and shall be a valid claim of the respective
17 holders thereof only against the Bond Fund created under the Indenture and other
moneys held by the Trustee and of the Project (but in addition shall be secured
by a first mortgage lien on the Project), which revenues and other amounts shall
be pledged and secured under the Indenture for the equal and ratable payment
of the Bonds and shall be used for no other purpose than to pay the principal
of, premium, if any, and the interest on the Bonds, except as may be otherwise
expressly authorized in the Indenture. The Bonds and the interest thereon shall
never constitute a charge against the general credit or taxing power of the City.
In case any officer whose signature or facsimile of whose signature shall appear
on the Bonds or coupons shall cease to be such officer before the delivery of
such Bonds, such signature or other facsimile shall nevertheless be valid and
sufficient for all purposes, the same as if he had remained in office until delivery.

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SECTION 6. Additional Bonds The City may authorize the issuance
of Additional Bonds upon the terms and conditions provided the same rank as the
Bonds, but shall bear such date or dates, bear such interest rate or rates, have
such maturity dates, redemption dates and redemption premiums, and be issued
at such prices as shall be approved in writing by the City and the Lessee.

SECTION 7. Sale of the Bonds. The Mayor and the Clerk of the City
are hereby authorized and directed to sell the Bonds. The Mayor is hereby
authorized to execute and the Clerk is hereby authorized to attest, an Under-
writing Agreement, in the form submitted to this meeting and approved hereby,
in the minutes of this Common Council and to certify thereon that the same is
the form of such instrument submitted to this Common Council approved hereby,
and identified herein as the Underwriting Agreement, and to keep the same on
file.

SECTION 8. Indenture. In order to secure the payment of the prin-
cipal of and interest on the Bonds, the Mayor and Clerk shall execute, acknow-
ledge and deliver in the name and on behalf of the City, a Mortgage and Inden-
ture of Trust, herein identified as and called the Indenture, in the form sub-
mitted to this Common Council, which is hereby approved in all respects; and
the Clerk is hereby directed to insert a copy thereof in the form submitted to
this Common Council, which is hereby approved in all respects; and the Clerk
is hereby directed to insert a copy thereof in the form submitted to this meeting
and approved hereby, in the minutes of this Common Council and to certify
thereon that the same is the form of Indenture so submitted to this Common
Council and approved by this Bon Resolution shall constitute a part hereof as
therein provided and for all purposes of said Indenture, including the provisions
thereof relating to amendments and the severability of provisions of the Indenture.

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SECTION 9. Lease. In order to provide for the leasing of the Project
and the payment of rent sufficient in amount to pay the principal of and premium,
if any, and interest on the Bonds, the Mayor and the Clerk shall execute, acknowledge
and deliver in the name and on behalf of the City a Lease Agreement, herein
identified as and called the Lease, in the form submitted to this Common Council,
which is hereby approved in all respects; and the Clerk is hereby directed to insert
a copy of the Lease in the form submitted to this meeting and approved hereby, in the
minutes of this Common Council and to certify thereon that the same is the form of
Lease submitted to this Common Council and approved by this Bond Resolution and
identified herein as the Lease, and to keep such Lease on file. Said Lease contains
provisions authorized and permitted by the Act.

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SECTION 10. Acquisition of Title. The Mayor is authorized, on behalf
of the City, to use a portion of the proceeds of the bonds to acquire a fee simple title
to the Leased Land (as defined in the Lease) and to obtain a deed evidencing such
title.

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SECTION 11. General. The Mayor, Clerk, and City Controller be and
they are each hereby authorized and directed, in the name of and on behalf of the
City to execute any and all instruments, perform any and all acts, approve any of
them, to be necessary or desirable in order to carry out the purposes of this Bond
Resolution (including the preambles hereto) the acquisition of and the leasing of the
Project to the Lessee, the issuance and sale of the Bonds, and the securing of the Bonds
under the Indenture.

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All documents before this meeting, including the Indenture, the Lease,
are subject to completion in conformity with this Bond Resolution. The Mayor and
the Clerk, and each of them, is hereby authorized to execute and deliver said Inden-
ture and Lease, in substantially the form of said document before this Common
Council, on behalf of the City, with such changes therein as such officials with the
advise of counsel may determine, as conclusively evidenced by his execution there-
of, to be advisable and in the best interest of the City and in conformance with this
Bond Resolution.

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SECTION 12. Prior Proceedings. All action taken by the Commission
in connection with the Project is, to the extent not inconsistent with the Bond Resol-
ution, ratified and confirmed and incorporated herein.

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SECTION 13. Recognition of New Legislation. It is hereby recognized
that pursuant to Senate Enrolled Act No. 325, the Act became effective upon its
approval by the Governor on April 23, 1973, and that pursuant to Section 3 of said
Act No. 325, the Commission created by Special Ordinance No. S-19-72 of the City
continues with the powers and duties of a "development commission" under the Act.

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SECTION 14. Effective Date. This Bond Resolution shall be in full
force and effect immediately upon its adoption by the Common Council and approval
by the Mayor.

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Vivian G. Schmidt
Councilman

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

Date: _____ CITY CLERK

Read the third time in full and on motion by V. Schmidt, seconded by Hinga, and duly adopted, placed on its passage. Passed (LOST) by the following vote:

TOTAL VOTES	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT
BURNS	✓	—	—	—	—
HINGA	✓	—	—	—	—
KRAUS	✓	—	—	✓	—
MOSES	—	—	—	—	—
NUCKOLS	✓	—	—	—	—
SCHMIDT, D.	✓	—	—	—	—
SCHMIDT, V.	✓	—	—	—	—
STIER	✓	—	—	—	—
TALARICO	✓	—	—	—	—

DATE: 3/11/75 John W. Eleckman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution No. B-19-75) on the 11th day of March, 1975.

John W. Eleckman ATTEST: (SEAL) James E. Stier
CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of March, 1975, at the hour of 10:00 o'clock A.M., E.S.T.

Approved and signed by me this 12th day of March, 1975, at the hour of 4:30 o'clock P.M., E.S.T.

John F. Bond
MAYOR

Admn. Appr.

DIGEST SHEET

TITLE OF ORDINANCE **RESOLUTION**

Q-75-03-10

DEPARTMENT REQUESTING ORDNANCE

DEVELOPMENT COMMISSION

SYNOPSIS OF ORDINANCE Approving issuance of bonds for Gunnar Elliott Ice Arena, Inc.

Project, and approving updated forms of lease, mortgage and related documents

EFFECT OF PASSAGE issuance of bonds for financing of Gunnar Elliott Project

EFFECT OF NON-PASSAGE no financing

No cost to City

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS)

ASSIGNED TO COMMITTEE (PRESIDENT)